

### **REMARKS**

Claims 1-14 are currently pending. Claims 1, 5, and 12-14 have been amended. Claims 1, 5, and 12 are independent.

#### ***Claim Objections***

The Patent Office objected to Claims 13 and 14 as not being in accordance with 37 C.F.R. pt. 1.126. Claims 13 and 14 have been amended and are believed not objectionable.

#### ***Claim Rejections - 35 U.S.C. § 112***

The Patent Office rejected Claims 1-4 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Particularly, the Patent Office requested Applicant clarify, correct or delete the term “ware” in Claim 1. Claim 1 has been amended and is believed definite.

#### ***Claim Rejections – 35 USC § 102***

The Patent Office rejected Claims 1-14 under 35 U.S.C. § 102(e) as being anticipated by Kitagawa (U.S. Patent No. 6,708,231) (“Kitagawa”).

Applicant respectfully traverses the rejection. Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *W.L. Gore & Assocs. v. Garlock*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). Further, “anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983). Emphasis added.

Applicant respectfully submits Claims 1-14 recite elements that have not

been disclosed by Kitagawa. For example, Claim 1 recites:

- storing an boot system program in a first portion of a nonvolatile memory device;
- storing an application program in a second portion of said nonvolatile memory device, said boot system program being operable when executed to restore said appliance and said application program being operable when executed to operate said appliance;
- receiving signals from an interface circuit;
- performing input/output decoding on said signals received by said interface circuit;
- loading an upgraded application program from a source external of said appliance to a volatile memory device upon a reception of a rewriting command;
- and
- writing the contents of said upgraded application program to said second portion of said nonvolatile memory device in accordance with said upgraded application program.

The Patent Office cites to Kitagawa for the above limitations (Col. 3 lines 45-56, Col. 2 lines 30-36, Col. 4 lines 56-65 and 35-40, Fig. 2 #204 and 216, Col. 1 lines 57-63, Col. 5 lines 29-31). However, the cited sections of Kitagawa do not disclose storing a boot system program in a first portion of a nonvolatile memory device and an application program in a second portion of a nonvolatile memory device, the boot system program being operable to restore the appliance and the application program being operable to operate the appliance. Kitagawa discloses upgrading the firmware of a peripheral device while masking the reset signal of the peripheral device so that the firmware upgrade is not interrupted by a reset signal. Kitagawa does not disclose different programs stored in different portions of the nonvolatile memory. Kitagawa is concerned with preventing interruption of firmware upgrading and does not contain any teaching of restoration in the case where firmware upgrading has been interrupted. Therefore, Kitagawa does not disclose storing a boot system program in a first portion of a nonvolatile memory device and an application program in a second portion of a nonvolatile memory device, the boot system program being operable to restore the appliance and the application program being operable to operate the appliance.

Claim 5 recites:

- storing a first program in a first portion of a nonvolatile memory device;
- storing a second program in a second portion of said nonvolatile memory

device, said first program being operable when executed to restore said appliance and said second program being operable when executed to operate said appliance;  
receiving signals from an interface circuit;  
performing input/output decoding on said signals received by said interface circuit;  
loading said first program stored in said first portion of said nonvolatile memory device to a volatile memory device upon reception of a restoring command;  
executing said first program loaded in said volatile memory device; and  
loading a valid second program into said volatile memory device;  
wherein said valid second program is provided from a source external of said appliance.

The Patent Office cites to Kitagawa for the above limitations (rejection of Claim 1, Fig. 2 #204, 210 and 202; Col. 4 line 66 to Col. 5 line 27; Col. 2 lines 30-36; and Fig. 1 #102). However, the cited sections of Kitagawa do not disclose storing a first program in a first portion of a nonvolatile memory device and a second program in a second portion of a nonvolatile memory device, the first program being operable to restore the appliance and the second program being operable to operate the appliance. Kitagawa discloses upgrading the firmware of a peripheral device while masking the reset signal of the peripheral device so that the firmware upgrade is not interrupted by a reset signal. Kitagawa does not disclose different programs stored in different portions of the nonvolatile memory. Kitagawa is concerned with preventing interruption of firmware upgrading and does not contain any teaching of restoration in the case where firmware upgrading has been interrupted. Therefore, Kitagawa does not disclose storing a first program in a first portion of a nonvolatile memory device and a second program in a second portion of a nonvolatile memory device, the first program being operable to restore the appliance and the second program being operable to operate the appliance.

Claim 12 recites:

storing a first program in a first portion of a nonvolatile memory device;  
storing a second program in a second portion of said nonvolatile memory device, said first program being operable when executed to restore the appliance and said second program being operable when executed to operate the appliance;  
receiving signals from a ATAPI circuit;

performing input/output decoding on said signals received by said ATAPI circuit to determine whether a rewriting command has been received or a restoring command has been received;

in the event of reception of said rewriting command, loading an upgraded second program to a volatile memory device, erasing [[a]] said second program stored in said second portion of said nonvolatile memory device and writing the contents of said upgraded second program to said second portion of said nonvolatile memory device in accordance with said upgraded second program; and

in the event of reception of said restoring command, loading [[a]] said first program stored in said first portion of said nonvolatile memory device to a volatile memory device upon a restoring application operation received, initializing interface circuit, executing file system, reading a valid second program through said ATAPI circuit, loading said valid second program into said volatile memory device;

wherein said valid second program is provided from an optical disk.

The Patent Office cites to Kitagawa for the above limitations (Col 3 lines 25-27, rejection of Claim 5, Fig. 2 #216, Col. 5 lines 29-31, and rejection of Claim 1). However, the cited sections of Kitagawa do not disclose storing a first program in a first portion of a nonvolatile memory device and a second program in a second portion of a nonvolatile memory device, the first program being operable to restore the appliance and the second program being operable to operate the appliance. Kitagawa discloses upgrading the firmware of a peripheral device while masking the reset signal of the peripheral device so that the firmware upgrade is not interrupted by a reset signal. Kitagawa does not disclose different programs stored in different portions of the nonvolatile memory. Kitagawa is concerned with preventing interruption of firmware upgrading and does not contain any teaching of restoration in the case where firmware upgrading has been interrupted. Therefore, Kitagawa does not disclose storing a first program in a first portion of a nonvolatile memory device and a second program in a second portion of a nonvolatile memory device, the first program being operable to restore the appliance and the second program being operable to operate the appliance.

Thus, under *Lindemann*, a *prima facie* case of anticipation has not been established for Claims 1, 5, and 12. Claims 2-4 depend from Claim 1 and are believed allowable due to their dependence upon an allowable base claim.


Claims 6-11 depend from Claim 5 and are believed allowable due to their dependence upon an allowable base claim. Claims 13 and 14 depend from Claim 12 and are believed allowable due to their dependence upon an allowable base claim.

**CONCLUSION**

In light of the forgoing amendments, reconsideration of the claims is hereby requested, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,  
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